

**REMARKS**

Applicants respectfully request consideration of this supplemental response.

**I. Status of the Claims**

No claim amendments are made in this response. Applicants respectfully request that the Examiner enter and consider the claim amendments made in the response filed on November 22, 2010.

**II. Rejection of Claims under 35 U.S.C. §103(a)**

Claims 1-7, 9-11, 13-14, and 35-37 are rejected under 35 U.S.C. §103(a) for allegedly being obvious over U.S. Patent No. 5,747,001 to Wiedmann et al. ("Wiedmann") or PCT Publication No. WO 96/25918 by Wood et al. ("Wood"), in view of U.S. Patent Application Publication No. 2007/0117862 by Desai et al. ("Desai"), and as evidenced by U.S. Patent No. 6,139,870 to Verrecchia ("Verrecchia"). Applicants respectfully traverse each ground of the rejection.

In addition to the arguments submitted in the prior response, Applicants submit herewith a declaration executed by Dr. Gary Liversidge ("the Liversidge Declaration"). The Liversidge Declaration attests to the fact that the Board made factual errors in interpreting the teachings of Desai.

More specifically, Desai fails to teach that conventional surfactants can be used as equivalents to the surface stabilizers of the claimed invention. *See* the Liversidge Declaration, section III. Moreover, Desai fails to teach how to obtain the claimed invention in the absence of a protein surface stabilizer. *Id.*, section IV. Finally, Desai teaches away from using conventional surfactants as a surface stabilizer in preparation of the nanoparticulate active agent composition of the claimed invention. *Id.*, section V.

In view of the factual errors in the Board's decision, Applicants respectfully request withdrawal of the rejection under 35 U.S.C. §103(a).

**CONCLUSION**

The present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested. The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected or incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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By 

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